


IN THE CIRCUIT COURT FOR THE COUNTY OF COLE
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)	
JEREMIAH W. (JAY) NIXON,)	
Attorney General,)	
Petitioner,)	
)	Cause No. 04CV324630
vs.)	
)	Division II
HONORABLE MATT BLUNT,)	
Secretary of State for the State of Missouri)	
 Defendant.)	

ORDER DENYING PETITION

On this 21st day of May, 2004, the Court again takes up this Petition for a Writ of Mandamus or, in the alternative, for Declaratory Judgment. Counsel for Petitioner and Respondent appeared and presented oral argument on May 20, 2004, and both parties have filed suggestions. Because this matter is of constitutional significance and statewide importance, a definitive resolution by the Supreme Court of Missouri is best facilitated by a timely order by this court. The Court hereby DENIES the Petition as follows:

The Attorney General seeks a writ to compel the Secretary of State to perform his duties under Section 116.160 relative to preparing the constitutional amendment proposed by the General Assembly in Senate Joint Resolution 29 for a vote of the people of this state in the August special election called by Governor Holden for that purpose. The Governor's claimed authority for the proclamation is Article XII, Section 2 (b) which

provides that the amendments to the Constitution shall be submitted to the voters "as may be provided by law ... at the next general election, or at a special election called by the governor". The Respondent Secretary argues that he is bound by the procedural requirements imposed by Article III, Section 20 (a) and Section 30 of the Constitution, as well as the procedures and time constraint imposed by Chapter 116 of the Missouri Statutes, and, therefore, that he cannot respond to the Governor's Proclamation and take the actions required by Section 116.160 because the General Assembly has not completed its work on SJR 29 and because he has not received the official copy of SJR 29 from the General Assembly.


It is clear that the Secretary's duties under Section 116.160 are triggered by "receipt" of SJR 29. The Governor's Proclamation calling for a special election in August recites the provisions of SJR 29, but does not attach a copy of the same. Thus, the Secretary was not in "receipt" of the bill when he received the Governor's Proclamation and the Proclamation did not trigger his duties under Section 116.160.

The Attorney General argues that the Constitution nowhere requires the Secretary to "receive" the bill from any particular person or in any particular form. If the "receipt" requirement in Section 116.160 is nevertheless to be enforced, Petitioner argues, the Secretary is in "receipt" of SJR 29 now because a copy of the Truly Agreed and Finally Passed SJR 29 was attached to this Petition and delivered by the Attorney General to the Secretary. The Secretary acknowledges "receipt" of the copy of SJR 29 attached to the

Petition. Nevertheless, the Secretary argues that only the official copy of SJR 29, signed by the Speaker and the President Pro-Tem, coupled with delivery to his Office will suffice.

The Court hereby holds that the Secretary's duties under Section 116.160 have not yet been triggered, under the circumstances of this case. As the conditions precedent to the Secretary's duties under Section 116.160 have not occurred, the Petition is DENIED.

(1)


Circuit Judge